IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No.1234 of 1980

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

UPENDRASING VIJAYSING

Versus

ABDUL MAJID RASULBHAI

Appearance:

1. First Appeal No. 1234 of 1980

MR RN SHAH for Appellant No. 1

NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 07/10/2002

ORAL JUDGEMENT

1. The appellant was the original defendant in Civil Suit No.1536 of 1977 in the City Civil Court, Ahmedabad. The respondent - plaintiff had filed the said suit praying for a decree for Rs.3,735/=. The plaintiff was carrying on the business of a colour contractor. According to him, he had undertaken to paint, white wash

and colour wash the appellant's bungalow under an agreement at the rates specified therein. The plaintiff had completed the work to the satisfaction of the defendant around October, 1976. The defendant did not make the full payment for the work done by the plaintiff. The plaintiff, therefore, sent a notice but the defendant refused to accept the same. The plaintiff, therefore, filed the suit claiming the amount of Rs.3,700/= for the work done and Rs.35/= as notice charges. The defendant by his written statement contended that the plaintiff had carried out only a small part of the contract work. He alleged that the plaintiff, under the pretext of festival, borrowed Rs.1,000/= and then did not carry out the remaining work. He denied that the amount as claimed by the plaintiff was due.

2. After recording the evidence, oral and documentary, led by the parties, the learned City Civil Judge held that the plaintiff had proved that the value of the work came to Rs.4,725/= as alleged in the plaint and after deducting the amount of Rs.1,000/=, already paid by the defendant, he passed the decree for Rs.3,735/= in favour of the plaintiff. The appellant, who was the original defendant, has filed this appeal challenging the said decree.

3. The learned counsel for the appellant took me through the judgement and contended that the learned judge erred in recording the findings against the defendant. However, the learned judge has given cogent reasons after considering the entire evidence at length. It is not shown that he has committed any error in arriving at the conclusion that the value of the work carried out came to Rs.4,725/=.

4. There is no substance in appeal and the same is dismissed with no order as to costs.

Sd/-

[M.C.PATEL, J]

'Bhavesh'